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Attorneys for Defendant
AMERICAN AIRLINES, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

EDWARD E. ANDERSON,

Plaintiff,

v.

AMR The parent of AMERICAN
AIRLINES INC, AMERICAN AIRLINES,
and DOES 1 through 5 INCLUSIVE,

Defendants.

Case No. C 07-03527 WHA

**NOTICE OF ORDER SETTING INITIAL
CASE MANAGEMENT CONFERENCE
AND ADR DEADLINES AND
SUPPLEMENTARY MATERIAL**

Civil Local Rule 4-2

TO PLAINTIFF EDWARD E. ANDERSON, APPEARING *in propria persona*:

PLEASE TAKE NOTICE that on or about July 6, 2007, counsel for Defendant AMERICAN AIRLINES, INC. received the following document from the United States District Court for the Northern District of California in the above-referenced case: Order Setting Initial Case Management Conference and ADR Deadlines. A copy of the aforementioned Order is attached hereto as Exhibit A.

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1 Additionally, pursuant to Civil Local Rule 4-2, enclosed please find copies of the following
2 documents attached hereto:

- 3 1. As Exhibit B, Handbook entitled "Dispute Resolution Procedures in the Northern
4 District of California;"
- 5 2. As Exhibit C, Standing Order for all Judges of the Northern District of California re
6 Contents of Joint Case Management Statement;
- 7 3. As Exhibit D, the Honorable William H. Alsup's Supplemental Order to Order
8 Setting Initial Case Management Conference in Civil Cases;
- 9 4. As Exhibit E, the applicable form allowing a party to consent to assignment of the
10 case to a Magistrate Judge; and
- 11 5. As Exhibit F, ECF Registration Information Handout for the U.S. District Court,
12 Northern California.

13
14 Dated: July 10, 2007


15 
16 KENNETH R. O'BRIEN
17 DENISE M. VISCONTI
18 LITTLER MENDELSON
19 A Professional Corporation
20 Attorneys for Defendant
21 AMERICAN AIRLINES, INC.
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EXHIBIT A

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EDWARD E. ANDERSON,

Plaintiff (s),

v.

AMR THE PARENT OF AMERICAN
AIRLINES INC.,

Defendant(s).

No. C 07-03527 WHA

**ORDER SETTING INITIAL CASE
MANAGEMENT CONFERENCE AND
ADR DEADLINES**

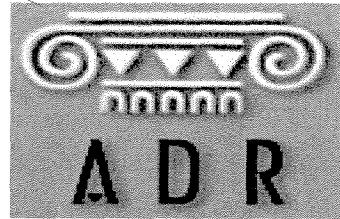
IT IS HEREBY ORDERED that this action is assigned to the Honorable William H. Alsup. When serving the complaint or notice of removal, the plaintiff or removing defendant must serve on all other parties a copy of this order, the handbook entitled "Dispute Resolution Procedures in the Northern District of California" and all other documents specified in Civil Local Rule 4-2. Counsel must comply with the case schedule listed below unless the Court otherwise orders.

IT IS FURTHER ORDERED that this action is assigned to the Alternative Dispute Resolution (ADR) Multi-Option Program governed by ADR Local Rule 3. Counsel and clients shall familiarize themselves with that rule and with the handbook entitled "Dispute Resolution Procedures in the Northern District of California."

CASE SCHEDULE -ADR MULTI-OPTION PROGRAM

Date	Event	Governing Rule
7/6/2007	Notice of removal filed	
9/20/2007	Last day to: <ul style="list-style-type: none"> meet and confer re: initial disclosures, early settlement, ADR process selection, and discovery plan file Joint ADR Certification with Stipulation to ADR Process or Notice of Need for ADR Phone Conference 	<u>FRCivP 26(f) & ADR L.R.3-5</u> <u>Civil L.R. 16-8</u>
10/4/2007	Last day to file Rule 26(f) Report, complete initial disclosures or state objection in Rule 26(f) Report and file Case Management Statement per attached Standing Order re Contents of Joint Case Management Statement (also available at http://www.cand.uscourts.gov)	<u>FRCivP 26(a) (1)</u> <u>Civil L.R. 16-9</u>
10/11/2007	INITIAL CASE MANAGEMENT CONFERENCE (CMC) in Ctrm 9, 19th Fl,SF at 11:00 AM	<u>Civil L.R. 16-10</u>

EXHIBIT B



Dispute Resolution Procedures

in the
Northern District
of California

United States District Court



Revised 12/05


 Printed on recycled paper



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Why Does the court offer ADR?

A Message from the Judges of the U.S. District Court

It is the mission of this court to do everything it can to help parties resolve their disputes as fairly, quickly and efficiently as possible. The cases filed in our court present a wide range of issues and circumstances. No single process can be expected to meet the needs of all of these cases.

While traditional litigation can serve parties' interests well in some situations, many cases have needs that can be better met through other procedures. We offer a wide selection of non-binding alternative dispute resolution (ADR) options—each of which provides different kinds of services—so that parties can use the procedure that best fits the particular circumstances of their case.

As discussed in the following pages, ADR processes can offer numerous advantages over both formal litigation and direct negotiations between the parties. In contrast to formal litigation and direct negotiations, ADR procedures may lead to resolutions that are:

- faster
- less expensive
- more creative
- better tailored to all parties' underlying interests

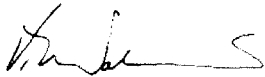
We urge you to consider using an ADR process in any civil case, at any time. The court's professional ADR staff, which includes attorneys with expertise in ADR procedures, is available to help you select a suitable option or to customize an ADR procedure to meet your needs. Our ADR processes, which are governed by the court's ADR Local Rules, are available in every civil case.

This handbook informs you about:

- the benefits of ADR
- available ADR options
- selecting an appropriate ADR process
- procedures in ADR programs

To help ensure that you make informed choices, the court requires, under Civil Local Rule 16, that every attorney and client certify that they have read this handbook and considered the ADR options. Reading this handbook is not a substitute for understanding the ADR Local Rules. Be sure to consult the rules when selecting and participating in an ADR process.

We have committed substantial resources to our ADR programs because we are confident that litigants who use them conscientiously can save significant money and time and will often obtain more satisfying results.

A handwritten signature in black ink, appearing to read "Vaughn R. Walker".

Vaughn R. Walker
Chief Judge
For all the Judges of the Court



How can ADR help in my case?

Most cases can benefit in some way from ADR. The various ADR processes offer different types of benefits. Each ADR process offers at least some of the following advantages over traditional litigation or direct settlement negotiations.

Produce more satisfying results

After litigating a case through trial, even the winners may feel they have lost. The costs and time commitment on both sides may be enormous. Sometimes neither side is satisfied with the result—and any relationship that may have existed between the parties is likely to have been severely strained. On the other hand, ADR may:

- ▶ help settle all or part of the dispute much sooner than trial
- ▶ permit a mutually acceptable solution that a court would not have the power to order
- ▶ save time and money
- ▶ preserve ongoing business or personal relationships
- ▶ increase satisfaction and thus result in a greater likelihood of a lasting resolution

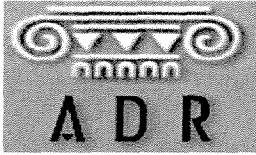
Allow more flexibility, control and participation

In formal litigation, the court is limited in the procedures it must follow and the remedies it may award—and submitting a case to a judge or jury can be extremely risky. ADR processes are more flexible and permit parties to participate more fully and in a wider range of ways. They afford parties more control by providing opportunities to:

- ▶ tailor the procedures used to seek a resolution
- ▶ broaden the interests taken into consideration
- ▶ fashion a business-driven or other creative solution that may not be available from the court
- ▶ protect confidentiality
- ▶ eliminate the risks of litigation

Enable a better understanding of the case

In traditional litigation, sometimes the parties stop communicating directly—and it is only after a significant amount of time and expensive discovery or motions that the parties understand what is really in dispute. ADR can expedite the parties' access to information. It can also improve the quality of justice by helping the parties obtain a better understanding of their case early on. It may:



- ▶ provide an opportunity for clients to communicate their views directly and informally
- ▶ help parties get to the core of the case and identify the disputed issues
- ▶ enhance the parties' understanding of the relevant law and

the strengths and weaknesses of their positions

- ▶ help parties agree to exchange key information directly

Improve case management

Attorneys in litigation sometimes find it difficult, early in the case, to devise a cost-effective case management plan, reach stipulations or narrow the dispute. An ADR neutral can help parties:

- ▶ streamline discovery and motions
- ▶ narrow the issues in dispute and identify areas of agreement and disagreement
- ▶ reach factual and legal stipulations

Reduce hostility

Due to its adversarial nature, litigation sometimes increases the level of hostility between sides, which can make communication more difficult and impede chances for settlement. In contrast, a trained ADR neutral can:

- ▶ improve the quality and tone of communication between parties
- ▶ decrease hostility between clients and between lawyers
- ▶ reduce the risk that parties will give up on settlement efforts

WHEN ADR MAY NOT BE USEFUL

Although most cases can benefit in some way from ADR, some cases might be better handled without ADR. These include suits in which:

- ▶ a party seeks to establish precedent
- ▶ a dispositive motion requiring little preparation will probably succeed
- ▶ a party needs the protections of formal litigation
- ▶ a party prefers that a judge preside over all processes

If your dispute might benefit from one or more of the listed advantages, you should seriously consider trying ADR and give careful thought to selecting the most appropriate process for your case.

Which ADR processes does the court offer?

The court sponsors four major ADR processes:

- ▶ **Arbitration** (non-binding, or binding if all parties agree)
- ▶ **Early Neutral Evaluation**
- ▶ **Mediation**
- ▶ **Settlement Conferences** conducted by magistrate judges or district judges

Each of these programs is described separately in the next few pages. Please consult the ADR Local Rules for more information. The court's ADR staff will help parties customize an ADR process to meet their needs.

The court also makes available other dispute resolution processes and encourages parties to consider retaining the services of private sector ADR providers as discussed on page 16 and in ADR Local Rule 8-2.

Arbitration

Goal

The goal of court-sponsored arbitration is to provide parties with an adjudication that is earlier, faster, less formal and less expensive than trial. The award (a proposed judgment) in a non-binding arbitration may either:

- ▶ become the judgment in the case if all parties accept it, or
- ▶ serve as a starting point for settlement discussions

Process

At the election of the parties, either one arbitrator or a panel of three arbitrators presides at a hearing where the parties present evidence through documents, other exhibits and testimony. The application of the rules of evidence is relaxed somewhat in order to save time and money.

The process includes important, trial-like sources of discipline and creates good opportunities to assess the impact and credibility of key witnesses:

- ▶ parties may use subpoenas to compel witnesses to attend or present documents
- ▶ witnesses testify under oath, through direct and cross-examination

- ▶ the proceedings can be transcribed and testimony could, in some circumstances, be used later at trial for impeachment

Arbitrators apply the law to the facts of the case and issue a non-binding award on the merits. Arbitrators do not “split the difference” and do not conduct mediations or settlement negotiations.

Preservation of right to trial

Either party may reject the non-binding award and request a trial *de novo* before the assigned judge, who will not know the content of the arbitration award. If no such demand is filed within the prescribed time, the award becomes the final judgment of the court and is not subject to appellate review. There is no penalty for demanding a trial *de novo* or for failing to obtain a judgment at trial that is more favorable than the arbitration award. Rejecting an arbitration award will not delay the trial date.

Parties may stipulate in advance to waive their right to seek a trial *de novo* and thereby commit themselves to be bound by the arbitration award.

The neutral(s)

The court’s ADR staff appoints an arbitrator (or, at the parties’ option, a panel of three arbitrators) with expertise in the substantive legal area of the lawsuit, who is available and has no apparent conflict of interest. The parties may object to the arbitrator if they perceive a conflict of interest.

All arbitrators on the court’s panel have the following qualifications:

- ▶ admission to the practice of law for at least ten years
- ▶ for at least five years, spent a minimum of 50 percent of professional time litigating or had substantial experience as an ADR neutral
- ▶ training by the court

Attendance

Insurers of parties are strongly encouraged to attend the arbitration. The following individuals are required to attend:

- ▶ clients with knowledge of the facts
- ▶ the lead trial attorney for each party
- ▶ any witnesses compelled by subpoena

Confidentiality

The arbitration award is not admissible at a subsequent trial *de novo*, unless the parties stipulate otherwise. The award itself is sealed upon filing and may not be disclosed to the assigned judge until the court has entered final judgment in the action or the action is otherwise

terminated. Recorded communications made during the arbitration may, for limited purposes, be admissible at a trial *de novo*. See 28 U.S.C. § 657(c)(3).

Timing

An arbitration may be requested at any time. The hearing is generally held within 90 days after referral to arbitration. The hearing date is set by the arbitrator(s) after consultation with the parties.

Written submissions

The parties exchange and submit written statements to the arbitrator(s) at least 10 days before the arbitration. The statements are not filed with the court

Appropriate cases/circumstances

All civil cases are eligible. Cases that do not meet the criteria for permissive referral to arbitration as set forth in 28 U.S.C. § 654 may not be referred to arbitration unless all parties consent in writing. Cases with the following characteristics may be particularly appropriate for arbitration:

- ▶ only monetary (and not injunctive) relief is sought
- ▶ the complaint alleges personal injury, property damage or breach of contract
- ▶ the amount in controversy is less than \$150,000
- ▶ the case turns on credibility of witnesses
- ▶ the case does not present complex or unusual legal issues

Cost

There is no charge to the litigants.

Governing rule

ADR Local Rule 4.

Early Neutral Evaluation

Goal

The goals of Early Neutral Evaluation (ENE) are to:

- ▶ enhance direct communication between the parties about their claims and supporting evidence
- ▶ provide an assessment of the merits of the case by a neutral expert
- ▶ provide a “reality check” for clients and lawyers
- ▶ identify and clarify the central issues in dispute
- ▶ assist with discovery and motion planning or with an informal exchange of key information
- ▶ facilitate settlement discussions, when requested by the parties

ENE aims to position the case for early resolution by settlement, dispositive motion or trial. It may serve as a cost-effective substitute for formal discovery and pretrial motions. Although settlement is not the major goal of ENE, the process can lead to settlement.

Process

The evaluator, an experienced attorney with expertise in the subject matter of the case, hosts an informal meeting of clients and counsel at which the following occurs:

- ▶ each side—through counsel, clients or witnesses—presents the evidence and arguments supporting its case (without regard to the rules of evidence and without direct or cross-examination of witnesses)
- ▶ the evaluator identifies areas of agreement, clarifies and focuses the issues and encourages the parties to enter procedural and substantive stipulations
- ▶ the evaluator writes an evaluation in private that includes:
 - ▶ an estimate, where feasible, of the likelihood of liability and the dollar range of damages
 - ▶ an assessment of the relative strengths and weaknesses of each party’s case
 - ▶ the reasoning that supports these assessments
- ▶ the evaluator offers to present the evaluation to the parties, who may then ask either to:
 - ▶ hear the evaluation (which must be presented if any party requests it), *or*
 - ▶ postpone hearing the evaluation to:
 - ▶ engage in settlement discussions facilitated by the evaluator, often in separate meetings with each side, *or*
 - ▶ conduct focused discovery or make additional disclosures

- ▶ if settlement discussions do not occur or do not resolve the case, the evaluator may:
 - ▶ help the parties devise a plan for sharing additional information and/or conducting the key discovery that will expeditiously equip them to enter meaningful settlement discussions or position the case for resolution by motion or trial
 - ▶ help the parties realistically assess litigation costs
 - ▶ determine whether some form of follow up to the session would contribute to case development or settlement

Preservation of right to trial

The evaluator has no power to impose settlement and does not attempt to coerce a party to accept any proposed terms. The parties' formal discovery, disclosure and motion practice rights are fully preserved. The confidential evaluation is non-binding and is not shared with the trial judge. The parties may agree to a binding settlement. If no settlement is reached, the case remains on the litigation track.

The neutral

The court's ADR staff appoints an ENE evaluator with expertise in the substantive legal area of the lawsuit, who is available and has no apparent conflict of interest. The parties may object to the evaluator if they perceive a conflict of interest.

All evaluators on the court's panel have the following qualifications:

- ▶ admission to the practice of law for at least 15 years
- ▶ experience with civil litigation in federal court
- ▶ expertise in the substantive law of the case
- ▶ training by the court

Many evaluators also have received the court's mediation training.

Attendance

The following individuals are required to attend in person:

- ▶ clients with settlement authority and knowledge of the facts
- ▶ the lead trial attorney for each party
- ▶ insurers of parties, if their agreement would be necessary to achieve settlement

Requests to permit attendance by phone rather than in person, which will be granted only under extraordinary circumstances, may be made to the ADR Magistrate Judge. Clients are strongly encouraged to participate actively in the ENE session.

Confidentiality

Communications made in connection with an ENE session ordinarily may not be disclosed to the assigned judge or to anyone else not involved in the litigation, unless otherwise agreed.

Timing

An ENE session may be requested at any time. The time for holding the ENE session is presumptively within 90 days after the referral to ENE, unless otherwise fixed by the court. The evaluator contacts counsel to schedule an initial telephone conference to set the date, time and location of the ENE session and to discuss how to maximize the utility of ENE.

Written submissions

Counsel exchange and submit written statements to the evaluator at least 10 days before the ENE session. ADR Local Rule 5-9 lists special requirements for intellectual property cases. The statements are not filed with the court.

Appropriate cases/circumstances

All civil cases are eligible, if the court has an available evaluator with the appropriate subject matter expertise. Cases with the following characteristics may be particularly appropriate:

- ▶ counsel or the parties are far apart on their view of the law and/or value of the case
- ▶ the case involves technical or specialized subject matter-and it is important to have a neutral with expertise in that subject
- ▶ case planning assistance would be useful
- ▶ communication across party lines (about merits or procedure) could be improved
- ▶ equitable relief is sought-if parties, with the aid of a neutral expert, might agree on the terms of an injunction or consent decree

Cost

The evaluator volunteers preparation time and the first four hours of the ENE session. After four hours of ENE, the evaluator may (1) continue to volunteer his or her time or (2) give the parties the option of concluding the procedure or paying the evaluator for additional time at an hourly rate of \$200, to be split among the parties as they determine. The procedure continues only if all parties and the evaluator agree. After eight hours in one or more ENE sessions, if all parties agree, the evaluator may charge his or her hourly rate or such other rate that the parties agree to pay.

Governing rule

ADR Local Rule 5.

Mediation

Goal

The goal of mediation is to reach a mutually satisfactory agreement resolving all or part of the dispute by carefully exploring not only the relevant evidence and law, but also the parties' underlying interests, needs and priorities.

Process

Mediation is a flexible, non-binding, confidential process in which a neutral lawyer-mediator facilitates settlement negotiations. The informal session typically begins with presentations of each side's view of the case, through counsel or clients. The mediator, who may meet with the parties in joint and separate sessions, works to:

- ▶ improve communication across party lines
- ▶ help parties clarify and communicate their interests and those of their opponent
- ▶ probe the strengths and weaknesses of each party's legal positions
- ▶ identify areas of agreement and help generate options for a mutually agreeable resolution

The mediator generally does not give an overall evaluation of the case. Mediation can extend beyond traditional settlement discussion to broaden the range of resolution options, often by exploring litigants' needs and interests that may be independent of the legal issues in controversy.

Preservation of right to trial

The mediator has no power to impose settlement and does not attempt to coerce a party to accept any proposed term. The parties' discovery, disclosure and motion practice rights are fully preserved. The parties may agree to a binding settlement. If no settlement is reached, the case remains on the litigation track.

The neutral

The court's ADR staff appoints a mediator who is available and has no apparent conflicts of interest. The parties may object to the mediator if they perceive a conflict of interest. Most mediators on the court's panel are lawyers who have been admitted to practice for at least seven years. The panel also includes a few mediators who have other professional credentials. The court's ADR staff will appoint a non-lawyer mediator only after obtaining the parties' permission. All mediators on the court's panel have the following qualifications:

- ▶ experience in communication and negotiation techniques
- ▶ knowledge about civil litigation in federal court
- ▶ training by the court

Attendance

The following individuals are required to attend the mediation session:

- ▶ clients with settlement authority and knowledge of the facts
- ▶ the lead trial attorney for each party
- ▶ insurers of parties, if their agreement would be necessary to achieve a settlement

Requests to permit attendance by phone rather than in person, which will be granted only under extraordinary circumstances, may be made to the ADR Magistrate Judge. Clients are strongly encouraged to participate actively in the mediation.

Confidentiality

Communications made in connection with a mediation ordinarily may not be disclosed to the assigned judge or to anyone else not involved in the session, unless otherwise agreed.

Timing

A mediation may be requested at any time. The time for holding the mediation is presumptively within 90 days after the referral to mediation, unless otherwise fixed by the court. The mediator contacts counsel to schedule an initial telephone conference to set the date, time and location of the mediation session and to discuss how to maximize the utility of mediation.

Written submission

Counsel exchange and submit written statements to the mediator at least 10 days before the mediation. The mediator may request or accept additional confidential statements that are not shared with the other side. These statements are not filed with the court.

Appropriate cases/circumstances

All civil cases are eligible. Cases with the following characteristics may be particularly appropriate:

- ▶ the parties desire a business-driven or other creative solution
- ▶ the parties may benefit from a continuing business or personal relationship
- ▶ multiple parties are involved
- ▶ equitable relief is sought-if parties, with the aid of a neutral, might agree on the terms of an injunction or consent decree
- ▶ communication appears to be a major barrier to resolving or advancing the case

Cost

The mediator volunteers preparation time and the first four hours of the mediation. After four hours of mediation, the mediator may either (1) continue to volunteer his or her time or (2) give the parties the option of concluding the procedure or paying the mediator for additional time at an hourly rate of \$200, to be split among the parties as they determine. The mediation continues only if all parties and the mediator agree. After eight hours in one or more mediation

sessions, if all parties agree, the mediator may charge his or her hourly rate or such other rate that the parties agree to pay.

Governing rule

ADR Local Rule 6.

Settlement Conferences

Goal

The goal of a settlement conference is to facilitate the parties' efforts to negotiate a settlement of all or part of the dispute.

Process

A judicial officer, usually a magistrate judge, helps the parties negotiate. Some settlement judges also use mediation techniques to improve communication among the parties, probe barriers to settlement and assist in formulating resolutions. Settlement judges might articulate views about the merits of the case or the relative strengths and weaknesses of the parties' legal positions. Often settlement judges meet with one side at a time, and some settlement judges rely primarily on meetings with counsel.

Preservation of right to trial

The settlement judge has no power to impose settlement and does not attempt to coerce a party to accept any proposed terms. The parties may agree to a binding settlement. If no settlement is reached, the case remains on the litigation track. The parties' formal discovery, disclosure and motion practice rights are fully preserved.

The neutral

A magistrate judge or, in limited circumstances, a district judge conducts the settlement conference. The judge who would preside at trial does not conduct the settlement conference unless the parties stipulate in writing and the judge agrees. Parties may request a specific magistrate judge or rank several magistrate judges in order of preference. The court will attempt to accommodate such preferences.

Magistrate judges have standing orders setting forth their requirements for settlement conferences, including written statements and attendance. Questions about these issues should be directed to the chambers of the assigned magistrate judge.

Attendance

Settlement judges' standing orders generally require the personal attendance of lead counsel and the parties. This requirement is waived only when it poses a substantial hardship, in which case the absent party is required to be available by telephone. Persons who attend the settlement conference are required to be thoroughly familiar with the case and to have authority to negotiate a settlement.

Confidentiality

Communications made in connection with a settlement conference ordinarily may not be disclosed to the assigned judge or to anyone else not involved in the litigation, unless otherwise agreed.

Timing

The assigned judge may refer a case to a magistrate judge for a settlement conference at any time. The timing of the settlement conference depends on the schedule of the assigned magistrate judge.

Written submissions

Written settlement conference statements, when required, are submitted directly to the settlement judge. The statements are not filed with the court.

Appropriate cases/circumstances

All civil cases are eligible. Cases with the following characteristics may be particularly appropriate:

- ▶ a client or attorney prefers to appear before a judicial officer
- ▶ issues of procedural law are especially important
- ▶ a party is not represented by counsel

Cost

There is no charge to the litigants.

Governing rule

ADR Local Rule 7.

Other ADR Processes**Customized ADR Processes**

The court's ADR staff will work with parties to customize an ADR process to meet the needs of their case or to design an ADR process for them. An ADR staff member is available for a telephone conference with all counsel to discuss ADR options. Clients are invited to join such conferences.

Non-binding Summary Bench or Jury Trial

The ADR staff can help parties structure a non-binding summary bench or jury trial under

ADR Local Rule 8-1(a). A summary bench or jury trial is a flexible, non-binding process designed to:

- ▶ promote settlement in complex, trial-ready cases headed for long trials
- ▶ provide an advisory verdict after an abbreviated presentation of evidence
- ▶ offer litigants a chance to ask questions and hear the reactions of the judge and/or jury
- ▶ trigger settlement negotiations based on the judge's or jury's non-binding verdict and reactions

Special Masters

The assigned judge may appoint a special master, whose fee is paid by the parties, to serve a wide variety of functions, including:

- ▶ discovery manager
- ▶ fact-finder
- ▶ host of settlement negotiations
- ▶ post-judgment administrator or monitor

Private ADR Providers

The court encourages parties to consider private sector ADR providers who offer services including arbitration, mediation, fact-finding, neutral evaluation and private judging. Private providers may be lawyers, law professors, retired judges or other professionals with expertise in dispute resolution techniques. They generally charge a fee.



Which is the most suitable ADR process for my case?

Each ADR process meets different needs and circumstances. When selecting an ADR process, you should carefully consider the needs of your particular case or situation and identify the goals you hope to achieve through ADR. Then select the ADR process that appears to maximize the potential for achieving your goals.

The chart on the next page may help you select an ADR process. The chart summarizes the court's general observations about the major benefits of ADR and the extent to which the court's four major ADR processes are likely to accomplish them. These are generalizations that the court believes are accurate in many, but not all, cases. The likelihood that a particular ADR process will deliver a benefit depends not only on the type of process, but on numerous other factors including: the style of the neutral; the type and procedural posture of the case; and the parties' and counsel's attitudes and personalities, level of preparation, and experience with the particular ADR process. The court's ADR staff is available to help you select or customize an ADR process to meet your needs.

What if I don't have a lawyer?

If you are not represented by a lawyer, the court suggests that you select the option of a magistrate judge settlement conference where your questions and concerns can be addressed directly by a judge who has experience working with unrepresented parties. Volunteer mediators, evaluators, and arbitrators, who take only a few cases each year, sometimes feel uncomfortable working with unrepresented parties, making it more difficult to place your case in these programs and potentially slowing down the process. If you do select mediation, ENE or non-binding arbitration and we are unable to find a suitable neutral, your case will be redirected to a settlement conference with a magistrate judge.

How likely is each ADR Process to deliver the specific benefit?

● = Very likely

◐ = Somewhat likely

○ = Unlikely

	Arbitration	ENE	Mediation	SC
ENHANCE PARTY SATISFACTION				
Help settle all or part of dispute	○ ¹	◐ ²	●	● ³
Permit creative/business driven solution that court could not offer	○	◐ ²	●	◐ ³
Preserve personal or business relationships	○ ¹	◐ ²	●	◐ ³
Increase satisfaction and thus improve chance of lasting solution	○ ¹	◐ ²	●	◐ ³
ALLOW FLEXIBILITY, CONTROL AND PARTICIPATION				
Broaden the interests taken into consideration	N/A	◐ ²	●	◐ ³
Protect confidentiality	◐ ⁴	●	●	●
Provide trial-like hearing	●	N/A	N/A	N/A
Provide opportunity to appear before judicial officer	N/A	N/A	N/A	●
IMPROVE CASE MANAGEMENT				
Help parties agree on further conduct of the case	N/A	●	◐ ⁵	◐ ³
Streamline discovery and motions	N/A	●	◐	◐ ³
Narrow issues and identify areas of agreement	N/A	●	● ⁵	●
Reach stipulations	N/A	●	◐ ⁵	●
IMPROVE UNDERSTANDING OF CASE				
Help get to core of case and sort out issues in dispute	◐	●	●	●
Provide neutral evaluation of case	●	●	○	◐ ³
Provide expert in subject matter	◐ ⁶	●	◐ ⁶	◐ ⁶
Help parties see strengths and weaknesses of positions	●	●	●	●
Permit direct and informal communication of clients' views	○	◐	●	○ ³
Provide opportunity to assess witness credibility and performance	●	◐ ⁷	◐ ⁷	○
Help parties agree to an informal exchange of key information	○	●	◐ ⁵	◐ ³
REDUCE HOSTILITY				
Improve communications between parties/attorneys	○ ¹	●	●	◐ ³
Decrease hostility	○	●	●	◐ ³

Notes

1. Arbitration may provide this benefit when the award triggers or contributes to settlement discussions.
2. ENE may provide this benefit when the parties use it for settlement discussions. Many of the court's ENE evaluators also have been trained as mediators.
3. Depending on the settlement judge's particular style, a settlement conference may or may not deliver this benefit.
4. The arbitration award may not be disclosed to the assigned trial judge until the action is terminated. Although the award is not admissible at a trial *de novo*, recorded communications made during the arbitration may be admissible for limited purposes.
5. Mediation may deliver this benefit, but it focuses primarily on settlement.
6. Depending on the subject of the dispute, the neutral may have expertise.
7. This benefit may result if the parties participate actively in the joint session.



What else do I need to know?

What is the ADR Multi-Option Program?

Most civil cases are assigned to the ADR Multi-Option program governed by ADR Local Rule 3. You will be notified of such assignment on the initial case management scheduling order. In this program, the parties are presumptively required to participate in one non-binding ADR process offered by the court or, with the assigned judge's permission, in an ADR process offered by a private provider.

We encourage you to discuss ADR with the other side and stipulate to an ADR process as early as feasible. If you do not stipulate early, you may be required to participate in a joint telephone conference with an ADR legal staff member to consider suitable ADR options for your case. *See* ADR Local Rule 3-5(c)(2). If you have not stipulated before your case management conference, you will discuss ADR with the judge who may refer you to one of the court's ADR processes.

What is an ADR Phone Conference and how do I schedule one?

During an ADR Phone Conference, a member of the court's ADR legal staff will help counsel select or customize an ADR process that meets the needs of the parties. Clients are encouraged, but not required, to participate. Generally, if the parties cannot agree on an ADR process, or if they prefer a settlement conference, they must file a Notice of Need for ADR Phone Conference by the date specified in the initial case management scheduling order. *See* ADR Local 3-5(c)(2). Of course, you may contact the ADR Unit to schedule an ADR Phone Conference at any time.

How do I get my case into an ADR process?

There are two ways cases can enter an ADR process:

By stipulation/proposed order

Counsel may file a stipulation and proposed order with the assigned judge. *See* ADR Local Rule 2-3.

By other order of the court

The assigned judge may order the case into an ADR program at the request of a party or on the judge's own initiative, subject to the provisions of 28 U.S.C. § 654. *See* ADR Local Rule 2-3.

When can I get my case into an ADR process?

At any time

Counsel, individually or jointly, can request an ADR referral at any time. The court encourages the use of ADR as early as it can be helpful.

Before the Case Management Conference

If all parties agree on an ADR process before the initial Case Management Conference, which usually occurs about 90 days after filing, you should submit a stipulation and proposed order identifying the process selected and the time frame you prefer.

At the Case Management Conference

If all parties have not yet agreed on an ADR process before the initial case management conference, you will discuss ADR with the judge at the conference. You are asked to state your ADR preferences in the Joint Case Management Statement you file before that conference.

When is the best time to use ADR and how much discovery should I first complete?

You should consider using ADR early, whether you are seeking assistance with settlement or case management. Conducting full-blown discovery before an ADR session may negate potential cost savings. If you are using ADR for settlement purposes, you should know enough about your case to assess its value and identify its major strengths and weaknesses.

Will ADR affect the status of my case on the trial track or disclosure and discovery?

Assignment to an ADR process generally does not affect the status of your case in litigation. Disclosure, discovery and motions are not stayed during ADR proceedings unless the court orders otherwise. Judges sometimes postpone case management or status conferences until after the parties have had an ADR session. If your case does not settle through ADR, it remains on the litigation track.

How might ADR be better than the parties meeting on their own?

Getting settlement discussions started

Sometimes advocates are reluctant to initiate settlement discussions. The availability of multiple ADR options and the ADR staff allows a party to explore settlement potential without indicating any litigation weakness.

Saving time and money

For various reasons, direct settlement discussions often do not occur until late in the lawsuit after much time and money have been spent. A substantial amount of time and money can be saved if parties actively explore settlement early in the pretrial period. An ADR process can provide a safe and early opportunity to discuss settlement.

Providing momentum and a “back up”

Often parties successfully negotiate an early resolution to their dispute on their own. Even if you are negotiating a settlement without the assistance of a neutral, you should still consider having your case referred to an ADR process to use as a “back up” in the event the case does not settle. Meanwhile, knowing that you have a date for the ADR process may help provide momentum and a “deadline” for your direct settlement discussions.

Overcoming obstacles to settlement

The adversarial nature of litigation often makes it difficult for counsel and parties to negotiate a settlement effectively. An ADR neutral can help overcome barriers to settlement by selectively using information from each side to:

- ▶ help parties engage in productive dialogue
- ▶ help each party understand the other side’s views and interests
- ▶ communicate views or proposals in more palatable terms
- ▶ gauge the receptiveness to proposals
- ▶ help parties realistically assess their alternatives to settlement
- ▶ help generate creative solutions

Improving case management

Discovery can be broad and expensive, and sometimes fails to focus on the most important issues in the case. An early meeting with a neutral such as an ENE evaluator may help parties agree to a focused, cost-effective discovery plan or may help them agree to exchange information informally.

Won’t I risk giving away my trial strategy in ADR?

About 98 percent of civil cases in our court are resolved without a trial. If you don’t raise your best arguments in settlement discussions, you risk failing to achieve the best result for your side. Although you need not reveal in an ADR session sensitive information related to trial

strategy, you might find it useful to raise it in a confidential separate session with the neutral (available after the evaluator prepares the evaluation in ENE, or at any time in mediation or a settlement conference). You can then hear the neutral's views of the significance of the information and whether or when sharing it with the other side may benefit you in the negotiations.



Where can I get more information?

Website

Our website at www.adr.cand.uscourts.gov contains information about the court's ADR Programs, including the contents of this ADR handbook, the ADR Local Rules, ADR Forms and an application to serve as a neutral.

Clerk's Office

You may obtain copies of this handbook and the ADR Local Rules from the intake counter at each of the Clerk's Office locations. The phone numbers for the Clerk's Office locations in San Francisco, Oakland and San Jose are as follows:

- ▶ San Francisco: (415) 522-2000
- ▶ Oakland: (510) 637-3530
- ▶ San Jose: (408) 535-5363

Court Library

The court's library on the 18th floor of the Federal Building and United States Courthouse in San Francisco is open to counsel and clients who have cases pending before the court. The library has a collection of resources on ADR. The collection includes an "ENE Handbook," which was prepared by the court for evaluators, but which might be helpful to counsel and clients with cases in ENE. The library's telephone number is (415) 436-8130.

ADR Unit

For information about selecting an ADR process or customizing one for your case, conflicts of interest, becoming a neutral or for other information, contact:

ADR Unit - U.S. District Court
450 Golden Gate Avenue
San Francisco, CA 94102
Tel: (415) 522-2199
Fax: (415) 522-4112
E-mail: ADR@cand.uscourts.gov
Internet: www.adr.cand.uscourts.gov

EXHIBIT C

**STANDING ORDER FOR ALL JUDGES OF THE NORTHERN DISTRICT OF
CALIFORNIA**

CONTENTS OF JOINT CASE MANAGEMENT STATEMENT

Commencing March 1, 2007, all judges of the Northern District of California will require the identical information in Joint Case Management Statements filed pursuant to Civil Local Rule 16-9. The parties must include the following information in their statement which, except in unusually complex cases, should not exceed ten pages:

1. Jurisdiction and Service: The basis for the court's subject matter jurisdiction over plaintiff's claims and defendant's counterclaims, whether any issues exist regarding personal jurisdiction or venue, whether any parties remain to be served, and, if any parties remain to be served, a proposed deadline for service.
2. Facts: A brief chronology of the facts and a statement of the principal factual issues in dispute.
3. Legal Issues: A brief statement, without extended legal argument, of the disputed points of law, including reference to specific statutes and decisions.
4. Motions: All prior and pending motions, their current status, and any anticipated motions.
5. Amendment of Pleadings: The extent to which parties, claims, or defenses are expected to be added or dismissed and a proposed deadline for amending the pleadings.
6. Evidence Preservation: Steps taken to preserve evidence relevant to the issues reasonably evident in this action, including interdiction of any document-destruction program and any ongoing erasures of e-mails, voice mails, and other electronically-recorded material.
7. Disclosures: Whether there has been full and timely compliance with the initial disclosure requirements of Fed. R. Civ. P. 26 and a description of the disclosures made.
8. Discovery: Discovery taken to date, if any, the scope of anticipated discovery, any proposed limitations or modifications of the discovery rules, and a proposed discovery plan pursuant to Fed. R. Civ. P. 26(f).
9. Class Actions: If a class action, a proposal for how and when the class will be certified.
10. Related Cases: Any related cases or proceedings pending before another judge of this court, or before another court or administrative body.
11. Relief: All relief sought through complaint or counterclaim, including the amount of any

damages sought and a description of the bases on which damages are calculated. In addition, any party from whom damages are sought must describe the bases on which it contends damages should be calculated if liability is established.

12. Settlement and ADR: Prospects for settlement, ADR efforts to date, and a specific ADR plan for the case, including compliance with ADR L.R. 3-5 and a description of key discovery or motions necessary to position the parties to negotiate a resolution.

13. Consent to Magistrate Judge For All Purposes: Whether all parties will consent to have a magistrate judge conduct all further proceedings including trial and entry of judgment.

14. Other References: Whether the case is suitable for reference to binding arbitration, a special master, or the Judicial Panel on Multidistrict Litigation.

15. Narrowing of Issues: Issues that can be narrowed by agreement or by motion, suggestions to expedite the presentation of evidence at trial (e.g., through summaries or stipulated facts), and any request to bifurcate issues, claims, or defenses.

16. Expedited Schedule: Whether this is the type of case that can be handled on an expedited basis with streamlined procedures.

17. Scheduling: Proposed dates for designation of experts, discovery cutoff, hearing of dispositive motions, pretrial conference and trial.

18. Trial: Whether the case will be tried to a jury or to the court and the expected length of the trial.

19. Disclosure of Non-party Interested Entities or Persons: Whether each party has filed the "Certification of Interested Entities or Persons" required by Civil Local Rule 3-16. **In addition**, each party must restate in the case management statement the contents of its certification by identifying any persons, firms, partnerships, corporations (including parent corporations) or other entities known by the party to have either: (i) a financial interest in the subject matter in controversy or in a party to the proceeding; or (ii) any other kind of interest that could be substantially affected by the outcome of the proceeding.

20. Such other matters as may facilitate the just, speedy and inexpensive disposition of this matter.

EXHIBIT D

Last revised April 9, 2007.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

**SUPPLEMENTAL ORDER TO
ORDER SETTING INITIAL CASE MANAGEMENT CONFERENCE
IN CIVIL CASES BEFORE JUDGE WILLIAM ALSUP**

INTRODUCTION

The purpose of this supplemental order is to guide the parties on recurring practical questions that arise prior to trial and to impose certain requirements for the conduct of the case. Counsel must please read this order and follow it.

SERVICE OF THIS ORDER

1. For cases originating in this Court, plaintiff(s) must serve this order and the order setting the initial case management conference (along with any other required pleadings) on each defendant. For cases removed from state court, the removing defendant(s) must serve this order and the order setting the initial case management conference (along with any other required pleadings) immediately on each and every party that has previously appeared or that appears within thirty days after removal. Thereafter, any existing party to the action that brings a new party into the action must immediately serve a copy of this order and the order setting the initial case management conference (along with any other required pleadings) on the new party.

CASE MANAGEMENT CONFERENCE

2. The parties will please address the standardized items in the court-wide format for the joint case management statement. This is available at the Standing Order For all Judges of the Northern District of California — Contents of Joint Case Management Statements. Please file (electronically or manually depending on your case) at least **SEVEN CALENDAR DAYS** prior to the case management conference.

3. Each party shall be represented at the case management conference by counsel (preferably lead counsel) prepared to address all such matters and with authority to enter stipulations and to make admissions.

4. Pursuant to FRCP 26(d), no formal discovery shall be initiated by any party until after the meet-and-confer session required by FRCP 26(f), except by stipulation or prior court order. As soon as a party has notice of this order, however, the party shall take such affirmative steps as are necessary to preserve evidence related to the issues presented by the action, including, without limitation, interdiction of any document-destruction programs and any ongoing erasures of e-mails, voice mails, and other electronically-recorded material.

ELECTRONIC CASE FILING — LODGING HARD COPIES WITH CHAMBERS

5. In all “E-Filing” cases, in addition to filing papers electronically, the parties are required to lodge for chambers one paper copy of each document that is filed electronically. These printed copies shall be marked “Chambers Copy — Do Not File” and shall be in an envelop clearly marked with the judge’s name and case number. It shall be delivered to the Clerk’s office no later than noon on the day following the day that the papers were filed electronically. Parties shall *not file* a paper copy of any document with the Clerk’s Office that has already been filed electronically. For the final pretrial conference, please follow *Guidelines for Trial and Final Pretrial Conference In Civil Jury Cases Before the Honorable William Alsup*.

6. Any proposed order other than those routinely submitted in connection with regularly-noticed motions shall be sent by e-mail to “whapo@cand.uscourts.gov” in WordPerfect or Microsoft Word format (*never* PDF). **PLEASE** include the case name and

1 number on the "subject" line of the e-mail message. This address should *only* be used for such
2 proposed orders.

3 SETTING MOTIONS

4 7. Counsel need not request a motion hearing date and may notice non-discovery
5 motions for any Thursday (excepting holidays) at 8:00 a.m. Case management and final pretrial
6 conferences will be set by the Court.

7 FORM OF SUBMISSIONS

8 8. On summary judgment motions, joint statements of undisputed facts are not
9 required but are helpful if completely agreed upon. Please do *not* file separate statements of
10 "undisputed facts."

11 9. Reply declarations are disfavored. Opening declarations should set forth all facts
12 on points foreseeably relevant to the relief sought. Reply papers should not raise new points that
13 could have been addressed in the opening.

14 10. The title of the submission must be sufficient to alert the Court to the relief
15 sought; for example, please do not bury a request for continuance in the body of a memorandum.

16 11. All submissions filed with the Court shall include on the cover sheet the date and
17 time of the hearing or conference. Counsel should include their facsimile transmission numbers
18 along with their telephone numbers on their papers.

19 DISCOVERY

20 12. The following paragraphs on discovery provide counsel and the parties with
21 views and guidelines of Judge Alsup so that they can plan accordingly. For good cause, the
22 parties are invited to propose any modifications in their joint case management conference
23 statement. Unless and until modified, however, the following provisions shall supplement the
24 requirements of the Federal Rules of Civil Procedure and the local rules.

25 13. In responding to requests for documents and materials under FRCP 34, all parties
26 shall *affirmatively state* in a written response the full extent to which they will produce materials
27 and shall, promptly after the production, confirm in writing that they have produced *all* such
28 materials so described that are locatable after a diligent search of *all* locations at which such

1 materials might plausibly exist. It is not sufficient to state that “responsive” materials will be or
2 have been produced. Such a response leaves open the distinct possibility that other responsive
3 materials have not been produced.

4 14. In searching for responsive materials in connection with FRCP 34 requests or for
5 materials required to be disclosed under FRCP 26(a)(1), parties must search computerized files,
6 e-mails, voice mails, work files, desk files, calendars and diaries, and any other locations and
7 sources if materials of the type to be produced might plausibly be expected to be found there.
8 The Court has found that certain basic information normally learned by counsel anyway should
9 be made available to the other side at the time of production, as if it were a response to a
10 standing interrogatory, as follows. At the time of the production, the responding party should
11 provide a written list to the requesting party setting forth in detail each specific source and
12 location searched. The list must also identify, by name and position, all persons conducting the
13 search and their areas of search responsibility. The producing party shall also provide a list
14 describing the specific source for each produced item as well as for each item withheld on a
15 ground of privilege, using the unique identifying numbers to specify documents or ranges.
16 Materials produced in discovery should bear unique identifying control numbers on each page.

17 15. To the maximum extent feasible, all party files and records should be retained
18 and produced in their original form and sequence including file folders, and the originals should
19 remain available for inspection by any counsel on reasonable notice.

20 16. Except for good cause, no item shall be received as case-in-chief evidence if the
21 proponent has failed to produce it in response to a reasonable and proper discovery request
22 covering the item, regardless of whether any discovery motion was made. A burden or
23 overbreadth or similar objection shall not be a valid reason for withholding requested materials
24 actually known to counsel or a party representative responsible for the conduct of the litigation.

25 17. Privilege logs shall be promptly provided and must be sufficiently detailed and
26 informative to justify the privilege. *See* FRCP 26(b)(5). No generalized claims of privilege or
27 work-product protection shall be permitted. With respect to each communication for which a
28

1 claim of privilege or work product is made, the asserting party must at the time of assertion
2 identify:

3 (a) all persons making or receiving the privileged or protected
4 communication;

5 (b) the steps taken to ensure the confidentiality of the communication,
6 including affirmation that no unauthorized persons have received the
7 communication;

8 (c) the date of the communication; and

9 (d) the subject matter of the communication.

10 Failure to furnish this information at the time of the assertion will be deemed a waiver of the
11 privilege or protection. The log should also indicate, as stated above, the location where the
12 document was found.

13 18. Absent extraordinary circumstances, counsel shall consult in advance with
14 opposing counsel and unrepresented proposed deponents to schedule depositions at
15 mutually-convenient times and places. That some counsel may be unavailable shall not,
16 however, be grounds for deferring or postponing a deposition if another attorney from the same
17 firm or who represents a party with similar interests to that witness is able to attend. Ordinarily,
18 if one side desires a prompt deposition, the other side is expected to agree to dates falling within
19 *thirty days* of the request. On the other hand, rarely should one side expect the other side to
20 agree to a deposition sooner than *seven days* of the request.

21 19. If any objection to a request for materials is overruled, and if the disputed request
22 was due and pending at the time of a deposition, the withholding party or counsel must, at the
23 request of any other party, re-produce all deponents under its control or represented by them for
24 further deposition examination as to any new materials produced in response that are germane
25 to that deponent and must bear the expense of doing so. A party objecting to producing
26 requested materials may not use the existence of its own objections as a basis for postponing
27 any deposition unless such party promptly meets and confers and then, if failing to reach an
28 agreement, seeks to bring a prompt motion for a protective order.

1 20. Counsel and parties shall comply with FRCP 30(d)(1). Deposition objections
2 must be as to privilege or form only. Speaking objections are prohibited. Under no
3 circumstances should any counsel interject, "if you know," or otherwise coach a deponent.
4 When a privilege is claimed, the witness should nevertheless answer questions relevant to the
5 existence, extent or waiver of the privilege, such as the date of a communication, who made the
6 statement, to whom and in whose presence the statement was made, other persons to whom the
7 contents of the statement have been disclosed, and the general subject matter of the statement.
8 Private conferences between deponents and attorneys in the course of examination, including a
9 line of related questions, are improper and prohibited except for the sole purpose of determining
10 whether a privilege should be asserted.

11 21. Deponents and their counsel must make a good-faith effort to prepare for
12 depositions and to refresh witness memories on important matters in the suit about which the
13 witness reasonably should be expected to have knowledge. Deponents who claim to lack
14 recollection during their deposition but who later claim at trial to have had their memories
15 refreshed in the interim, may be, among other things, impeached with their previous failures of
16 recollection during their depositions or be subject to preclusion. In preparing deponents,
17 defending counsel shall segregate and retain all materials used to refresh their memories and
18 shall provide them to examining counsel at the outset of the deposition.

19 22. To the maximum extent feasible, deposition exhibits shall be numbered in a
20 simple manner that will allow the same numbering at trial. In discovery, counsel shall agree on
21 blocks of exhibit numbers to be used by the respective parties. Identical exhibits should not be
22 re-marked, but various versions of the same document, such as copies with hand notes added,
23 should be separately marked if used. *See* Local Rule 30-2(b)(3).

24 23. FRCP 26(a)(2)(B) requires disclosure of all opinions, bases, reasons and "other
25 information considered" by an expert. Counsel shall preserve all drafts of expert reports (partial
26 or complete) and notes and other evidence of communications with experts (or with any
27 intermediaries between counsel and the experts) on the subject of this actual or potential
28 testimony, and shall instruct their experts and any intermediaries to do likewise. All such

1 materials shall be produced upon expert designation (unless all parties otherwise stipulate in
2 writing). This requirement does not apply to intermediate drafts prepared solely by the
3 testifying expert not provided to or discussed with anyone else. Counsel's private notes of
4 conversations will be treated as work product and need not be produced absent the showing
5 required by FRCP 26(b)(3).

6 24. With respect to depositions under FRCP 30(b)(6), the fundamental purpose is to
7 allow a party to notice a deposition by subject matter, thereby requiring the respondent to
8 designate and to produce one or more organization witnesses knowledgeable on the designated
9 topic, a useful procedure when the roles of percipient witnesses controlled by an adverse party
10 are unknown. In some cases, however, counsel routinely appear to notice
11 Rule 30(b)(6) depositions on numerous and wide-ranging topics, including even the basis for
12 "contentions" made by adverse parties. To obviate disputes and to give guidance, these
13 guidelines will be observed:

14 (a) Without a prior order increasing the limit, a party may seek
15 Rule 30(b)(6) depositions from another party on up to a total of ten subject
16 matters (for the entire case) described with "reasonable particularity." In framing
17 the subjects, it is normally improper to ask for Rule 30(b)(6) deponents to testify
18 concerning the entire basis of a claim or defense. On the other hand, examples of
19 proper subjects, which would require the respondent to find and to produce
20 knowledgeable deponents, include "the time line of research and development
21 leading to the invention in question" or "the efforts undertaken by defendant to
22 locate documents responsive to plaintiff's document request." The notice should
23 be directed at discovering percipient facts in the possession of the adverse party,
24 not at forcing a supposed "fact witness" to appear and defend the entire thesis of a
25 claim or defense. If a notice includes an overbroad topic, the overbroad topic
26 shall be unenforceable and may not be later replaced with a proper topic.

27 (b) Each witness-designee deposed for one half-day or more in a
28 Rule 30(b)(6) deposition shall count as a single deposition for purposes of the

1 deposition limit under FRCP 26 or under any case management order setting a
2 limit on the number of depositions. A corporate designee may, immediately after
3 being deposed on the stated subject, be deposed in his or her individual capacity.
4 Both such sessions shall count together as a single deposition (although they
5 should be separately transcribed). If two designees, to take another example, are
6 interrogated, each for one half-day or more, then they count as two depositions.

7 (c) If an organization cannot reasonably locate a witness to testify
8 based on personal knowledge, there is no requirement under Rule 30(b)(6) for the
9 organization to “woodshed” or to “educate” an individual to testify on the subject.
10 If the organization does not produce any such deponent, however, the
11 organization may not present case-in-chief evidence at trial or on summary
12 judgment on that topic from any witness it could have so designated.

13 (d) Rule 30(b)(6) testimony never constitutes an irrebuttable judicial
14 admission. It will normally, however, be evidence admissible against the
15 organization producing the witness. The jury may, upon request, be instructed on
16 the significance of the testimony under Rule 30(b)(6).

17 25. If a dispute arises during a deposition and involves either a persistent obstruction
18 of the deposition or a refusal to answer a material question on a ground other than privilege,
19 counsel may attempt to arrange a telephone conference with the Court through the courtroom
20 deputy, Dawn Toland, at 415-522-2020. Any such conference should be attended by the same
21 court reporter recording the deposition.

22 26. All other requests for discovery relief must first be summarized in a letter no
23 longer than three pages from the party seeking relief after having met and conferred. Up to
24 twelve pages of attachments may be added. In the letter, counsel should identify themselves in
25 the signature block as “counsel for _____.” *The letter should be electronically-filed in*
26 *the official file along with the discovery-dispute requests and responses, as well as any timely*
27 *letter cancelling the hearing if settlement is reached.* Counsel may send (and manually file) their
28 letters via the United States mail if their case is not an e-file case. (Please note that with all

1 communications with the Court by e-filing, *a hard copy must be lodged* in the Court's mail box
2 in the Clerk's Office on the sixteenth floor no later than noon of the following day.) The Court
3 will then advise the parties whether a response, written motion or a telephone conference or
4 court hearing will be required. After the telephone conference or hearing, counsel should submit
5 their proposed order (agreed as to form) by e-filing it and/or by United States mail. This
6 paragraph applies only to cases wherein discovery is being supervised by the district judge rather
7 than by a magistrate judge or special master.

8 DISCLOSURES

9 27. Apart from discovery, Rule 26 requires certain automatic disclosures and requires
10 them to be made in a timely manner. Under Rule 37(c), untimely-disclosed materials may not be
11 used at trial or on summary judgment unless the delay in disclosure is "harmless" or unless
12 "substantial justification" for the delay is shown.

13 COMMUNICATIONS WITH CHAMBERS

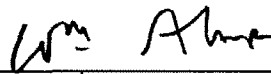
14 28. Please do not send any letters to the Court (except for requests for discovery
15 conferences, short cover letters for dismissals, orders agreed-upon as to form, or chambers
16 copies of electronically-filed documents). When corresponding with the Court by letter, always
17 identify whom you represent. Please do not fax or messenger anything to chambers without
18 advance permission specific to the item. If you need to messenger a letter to the Court, please
19 have it taken directly to the Clerk's Office. If you want the official file to be complete, you must
20 either take your letter to the Clerk's Office on the sixteenth floor and request it to be filed in the
21 official files, or mail it to the Clerk's Office for filing, or e-file it if the case is an e-filed case; the
22 chambers staff is *not* responsible for filing your documents.

23 29. You may contact the courtroom deputy, Dawn Toland (on the sixteenth floor in
24 the Clerk's Office), at 415-522-2020 with appropriate inquiries. Except for the letters described
25 above, please do not attempt to make contact by telephone or any other *ex parte* means with
26 chambers staff.

CROSS REFERENCE TO OTHER STANDING ORDERS AND GUIDELINES

30. The Court has separate standing guidelines for preparation for the final pretrial conference and trial. In securities cases, the Court has a standing order concerning early notice to class members. They are always available for review at the website for the United States District Court for the Northern District of California at www.cand.uscourts.gov.

Dated: April 9, 2007.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE

EXHIBIT E

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

No. C

Plaintiff(s),

**CONSENT TO PROCEED BEFORE A
UNITED STATES MAGISTRATE JUDGE**

v.

Defendant(s).

CONSENT TO PROCEED BEFORE A UNITED STATES MAGISTRATE JUDGE

In accordance with the provisions of Title 28, U.S.C. Section 636(c), the undersigned party hereby voluntarily consents to have a United States Magistrate Judge conduct any and all further proceedings in the case, including trial, and order the entry of a final judgment. Appeal from the judgment shall be taken directly to the United States Court of Appeals for the Ninth Circuit.

Dated: _____

Signature

Counsel for
(Plaintiff, Defendant or indicate "pro se")

EXHIBIT F

1 C 07 3527

U.S. District Court Northern California

ECF Registration Information Handout

WHA

The case you are participating in has been designated for this court's Electronic Case Filing (ECF) Program, pursuant to Civil Local Rule 5-4 and General Order 45. This means that you **must** (check off the boxes ☒ when done):

- ☐ **1) Serve this** ECF Registration Information Handout on **all** parties in the case along with the complaint, or for removals, the removal notice. **DO NOT** serve the efiler application form, just this handout.

Each attorney representing a party must also:

- ☐ **2) Register** to become an efiler by filling out the efiler application form. Follow **ALL** the instructions on the form carefully. If you are already registered in this district, do not register again, your registration is valid for life on all ECF cases in this district.
- ☐ **3) Email** (do not efile) the complaint and, for removals, the removal notice and all attachments, in PDF format within ten business days, following the instructions below. You do not need to wait for your registration to be completed to email the court.
- ☐ **4) Access** dockets and documents using **PACER** (Public Access to Court Electronic Records). If your firm already has a PACER account, please use that - it is not necessary to have an individual account. PACER registration is free. If you need to establish or check on an account, visit: <http://pacer.psc.uscourts.gov> or call **(800) 676-6856**.

BY SIGNING AND SUBMITTING TO THE COURT A REQUEST FOR AN ECF USER ID AND PASSWORD, YOU CONSENT TO ENTRY OF YOUR E-MAIL ADDRESS INTO THE COURT'S ELECTRONIC SERVICE REGISTRY FOR ELECTRONIC SERVICE ON YOU OF ALL E-FILED PAPERS, PURSUANT TO RULES 77 and 5(b)(2)(D) (eff. 12.1.01) OF THE FEDERAL RULES OF CIVIL PROCEDURE.

All subsequent papers submitted by attorneys in this case shall be filed electronically. Unrepresented litigants must file and serve in paper form, unless prior leave to file electronically is obtained from the assigned judge.

ECF registration forms, interactive tutorials and complete instructions for efilng may be found on the ECF website: <http://ecf.cand.uscourts.gov>

Submitting Initiating Documents

PDF versions of all the initiating documents originally submitted to the court (Complaint or Notice of Removal, exhibits, etc.) must be **emailed (not efiled)** to the **PDF email box for the presiding judge** (not the referring judge, if there is one) **within 10 (ten) business days** of the opening of your case. For a complete list of the email addresses, please go to: **<http://ecf.cand.uscourts.gov>** and click on **[Judges]**.

You must include the case number and judge's initials in the subject line of all relevant emails to the court. You do not need to wait for your registration to email these documents.

These documents must be emailed instead of e-filed to prevent duplicate entries in the ECF system. All other documents must be e-filed from then on. You do not need to efile or email the Civil Cover Sheet, Summons, or any documents issued by the court at case opening; note that you do need to efile the Summons Returned.

Converting Documents to PDF

Conversion of a word processing document to a PDF file is required before any documents may be submitted to the Court's electronic filing system. Instructions for creating PDF files can be found at the ECF web site: **<http://ecf.cand.uscourts.gov>**, and click on **[FAQ]**.

Email Guidelines: When sending an email to the court, the subject line of the email **must** contain the **case number, judge's initials** and the **type of document(s)** you are sending, and/or the topic of the email.

Examples: The examples below assume your case number is 03-09999 before the Honorable Charles R. Breyer:

Type of Document	Email Subject Line Text
Complaint Only	03-09999 CRB Complaint
Complaint and Notice of Related Case	03-09999 CRB Complaint, Related Case
Complaint and Motion for Temporary Restraining Order	03-09999 CRB Complaint, TRO

PROOF OF SERVICE BY MAIL

I am employed in San Diego County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 501 W. Broadway, Suite 900, San Diego, California 92101.3577. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. On July 11, 2007, I placed with this firm at the above address for deposit with the United States Postal Service a true and correct copy of the within document(s):

NOTICE OF ORDER SETTING INITIAL CASE MANAGEMENT
CONFERENCE AND ADR DEADLINES AND SUPPLEMENTARY
MATERIAL

in a sealed envelope, postage fully paid, addressed as follows:

Edward E. Anderson
801 Galway Drive #9
San Leandro, CA 94580
Phone: (510) 825-2549

Following ordinary business practices, the envelope was sealed and placed for collection and mailing on this date, and would, in the ordinary course of business, be deposited with the United States Postal Service on this date.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on July 11, 2007, at San Diego, California.

Loriann L. Christy
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